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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF)	
WILLIAM ERESUMA d/b/a)	
ERESUMA DRYWALL)	STIPULATION AND ORDER
TO OPERATE AS A)	
CONTRACTOR)	CASE NO. DOPL _____
IN THE STATE OF UTAH)	

2014-635

WILLIAM ERESUMA doing business as ERESUMA DRYWALL ("Respondent")
and the Construction Services Commission ("Commission") of the Department of Commerce of
the State of Utah stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Commission and the Division of
Occupational and Professional Licensing ("Division") over Respondent and over the subject
matter of this action
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and
voluntarily

3 Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter

4 Respondent understands that Respondent is entitled to a hearing before the Commission, or other Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing. Respondent understands that by signing this document Respondent waives all rights to any administrative and judicial review as set forth in Utah Code Ann §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R151-4-901 through R151-4-907 Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4)

5 Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter

6 Respondent acknowledges that this Stipulation and Order, if adopted by the Commission and Division, will be classified as a public document The Commission and Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's license to other persons and entities

7 Respondent admits the following facts are true

- a Respondent applied for renewal of its Utah contractor's license on or about November 26, 2013
- b Respondent compensated labor performed for Respondent by trading

services to the Laborer The labor provided to Respondent was performed by unlicensed persons who performed construction activities for which a license is required Respondent also failed to account for these traded services payments as taxable income, by issuing appropriate W-2 to the Laborers

8. Respondent admits that Respondent's conduct described above is unlawful conduct as defined in Utah Code Ann § 58-55-501(3) and unprofessional conduct as defined in Utah Code Ann § 58-55-502(2)(d) and (e), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and (b) Respondent understands that the issuance of the Order in this matter is disciplinary action by the Division against Respondent's license pursuant to Utah Administrative Code R156-1-102(6) and Utah Code Ann § 58-1-401(2) Respondent agrees that an Order shall be entered in this matter as follows

- (1) Respondent shall pay an administrative penalty of \$800.00 (eight hundred dollars) to the Division, pursuant to Utah Code Ann § 58-55-503, \$400 of which is due upon the effective date of this Stipulation and Order, and shall immediately cease and desist from hiring unlicensed persons to engage in construction activities for which a license is required The remaining \$400.00 (four hundred dollars) is suspended, subject to Respondent fully complying with the terms of this probation
- (2) Respondent's license shall be subject to a term of probation for a period of two years. The period of probation shall commence on the effective date of this Stipulation and Order, which is the date the Division Director signs the Order During the period of probation, Respondent shall be subject to all of the following terms and conditions. If the Commission or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Commission or Division
 - a Respondent shall provide adequate proof of compliance with any audit conducted by the Department of Workforce Services or the Labor Commission, including a payment of taxes, penalties or assessments
 - b. Respondent shall only hire licensed contractors to act as contractor or subcontractors in a construction trade requiring licensure or, alternatively

400 fine
paid in
full
2/19/2015

employ the persons as W-2 employees wherein all payroll taxes, unemployment insurance, and workers compensation insurance is paid

- c. Respondent shall provide the Division with the following documents on a quarterly basis

- (i) a copy of form 33H Employer Contribution Report and Wage List provided to the Division of Workforce Services, and

- (ii) if requested by the Division, a listing of the jobs completed by Respondent. The list shall include the customer's name and contact information. The list shall also include the names any employees or subcontractor including any persons paid on Form 1099 type payments who were involved in the performance of each job.

- d. Respondent shall provide the Division with the following documents on an annual basis, or at such other greater or lesser frequency as determined by the Commission and Division, for the duration of the Stipulation and Order

- (i) a personal income tax return for William Eresuma

- e. Respondent shall maintain an active license at all times during the period of this agreement.

- f. Respondent shall immediately notify the Division in writing of any change in Respondent's business address

- g. Respondent shall be responsible for payment of all costs associated with this Stipulation and Order. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of this Stipulation and Order.

9. This Stipulation and Order, upon approval by the Commission and Division Director, shall be the final compromise and settlement of this non-criminal administrative matter. Respondent acknowledges that the Commission and Director are not required to accept the terms of this Stipulation and Order and that if the Commission or Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Commission, Director, and the Respondent waive any claim of bias or prejudgment. Respondent

might have with regard to the Commission and Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice. If the Division files a Petition alleging that Respondent has engaged in new misconduct or files an Order to Show Cause Petition alleging that Respondent has violated any of the terms and conditions contained in this Stipulation and Order, the period of Respondent's probation shall be tolled during the period that the Petition or Order to Show Cause Petition has been filed and is unresolved.

11. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation. Respondent agrees not to take any action or make any public statement, that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Commission or Board members during a meeting of the Commission or Board. Any such action or statement shall be considered a violation of this Stipulation and Order.

12. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Commission and Division Director. Respondent must comply with all the terms and conditions of this Stipulation immediately following the Commission and Division Director's signing of the Order.